

253938

STATE OF SOUTH CAROLINA

(Caption of Case)

Petition of Palmetto Utilities, Inc. for Leave to
Substitute Letter of Credit for Certificate of
Deposit

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2014 - 479 - S

(Please type or print)

Submitted by: John M.S. Hoefer

SC Bar Number: 2549

Telephone: 803-252-3300

Fax: 803-771-2410

Other:

Address: Willoughby & Hoefer, P.A.

Post Office Box 8416

Columbia, SC 29202

Email: jhoefer@willoughbyhoefer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☒ Other: Request for expedited review by a Standing Hearing Officer

INDUSTRY (Check one)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☒ Sewer
☐ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other: _____

NATURE OF ACTION (Check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input checked="" type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

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JOHN W. ROBERTS
ANDREW J. D'ANTONI

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

December 19, 2014

*ALSO ADMITTED IN TX

**ALSO ADMITTED IN THE DISTRICT OF COLUMBIA

VIA HAND DELIVERY

The Honorable Jocelyn D. Boyd
Chief Clerk/Administrator

Public Service Commission of South Carolina

101 Executive Center Drive
Columbia, South Carolina 29211

RE: Petition of Palmetto Utilities, Inc. for Leave to Substitute
a Letter of Credit for a Certificate of Deposit

Dear Ms. Boyd:

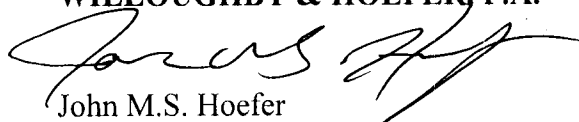
Enclosed please find the original and one (1) copy of the above-referenced Petition. Please accept these documents for filing and acknowledge your receipt of same by file-stamping the extra copy of this letter and the attached papers and returning them via our courier.

As set forth in the attached petition, Palmetto Utilities, Inc. seeks expedited review of the within Petition and requests that it be ruled upon by a Commission Standing Hearing Officer on the ground that it does not involve any determination on the merits in a contested case matter. As the Petition also reflects, I have consulted with counsel for the Office of Regulatory Staff ("ORS") and have been advised that it does not oppose the relief requested in this petition. By copy of this letter, I am serving the petition on counsel for ORS and enclose a certificate to that effect.

If you have any questions, or if you need any additional information to consider this request, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M.S. Hoefer

JMSH/cbs
Enclosures

cc: Jeffrey M. Nelson, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-__-S

IN RE:

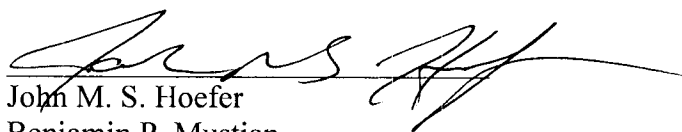
| | | |
|--------------------------------------|---|-----------------|
| Petition of Palmetto Utilities, Inc. |) | |
| for Leave to Substitute Letter of |) | PETITION |
| Credit for Certificate of Deposit |) | |
| _____ |) | |

Pursuant to 10 S.C. Code Rags 103-825 (2012), Palmetto Utilities, Inc. ("PUI" or "Company") hereby requests that the Commission grant to it leave for the substitution of a letter of credit ("LOC") for the certificate of deposit ("CD") now on file with the Commission as security for the performance of PUI's obligation to provide wastewater service as a public utility. In support of this petition, PUI would respectfully show as follows:

1. In accordance with 10 S.C. Code Regs. 103-512.3, PUI now has on file with the Commission a CD in the amount of \$350,000.00.
2. PUI requests that it be granted leave to substitute a LOC, in the same dollar amount and in the form attached hereto as Petition Exhibit "A," for the CD.
3. PUI makes this request in order that it may utilize its capital in the operation of its business while at the same time maintaining sufficient security for its obligation to provide service.

4. PUI submits that this request is reasonable and is consistent with the Commission's practices involving other jurisdictional wastewater utilities, including Palmetto Wastewater Reclamation LLC and Palmetto of Richland County LLC which are under common ownership and control with PUI.
5. PUI submits that this request is also consistent with the public interest given that the proposed issuer of the LOC is a national bank with more than adequate resources to honor same and that a letter of credit is a vehicle commonly used in a variety of commercial settings to insure prompt payment in circumstances where a draw thereon is required.
6. If the Commission were to grant the within Petition, PUI would deliver the fully executed LOC to the Commission and would thereafter request that the CD be immediately returned to PUI's counsel.
7. PUI's legal representatives in this matter are its undersigned counsel. PUI's corporate representative in this matter is Mr. Mark Daday, Chief Financial Officer for Ni America, whose business address is 10913 Metronome Drive, Houston, Texas, 77043.
8. PUI requests that this matter be considered by a Standing Hearing Officer of the Commission and on an expedited basis. PUI submits that a determination of the within petition by a hearing officer is authorized under 10 S.C. Code Regs. 103-804.G as it involves a matter that is not determinative of the merits in any contested proceeding.
9. PUI has consulted with counsel for the Office of Regulatory Staff ("ORS") and is informed and believes that ORS does not object to a grant of the relief requested.

WHEREFORE, having fully set forth its Petition, PUI prays that the Commission grant it leave to substitute a letter of credit in the form attached hereto as Exhibit "A" for the company's current certificate of deposit that is on file with the Commission, that the Petition be considered on an expedited basis and by a Commission Standing Hearing Officer, and that the Petitioner be granted such other and further relief as the Commission may deem just and proper.



John M. S. Hoefer

Benjamin P. Mustian

WILLOUGHBY & HOEFER, P.A.

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Palmetto Utilities, Inc.

This 19th day of December, 2014.
Columbia, South Carolina

[PALMETTO UTILITIES, INC. PETITION EXHIBIT "A"]

BANK OF AMERICA
ONE FLEET WAY
PA6-580-02-30
SCRANTON, PA 18507-1999

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____.

PLACE AND DATE OF ISSUE
COLUMBIA, SC 29201
DECEMBER _____, 2014

EXPIRY DATE/PLACE
[ONE YEAR FROM ISSUE DATE]

APPLICANT:
PALMETTO UTILITIES, INC.
1710 WOODCREEK FARMS ROAD
COLUMBIA, SC 29045

BENEFICIARY:
THE SC PUBLIC SERVICE COMMISSION
SYNERGY BUSINESS PARK
101 EXECUTIVE CENTER DRIVE
COLUMBIA, SC 29211-8411

CREDIT AMOUNT: USD 350,000.00

USD: THREE HUNDRED FIFTY THOUSAND AND 00/100

WE HERBY OPEN OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER _____ IN YOUR FAVOR FOR THE ABOVE NAMED APPLICANT IN THE AMOUNT OF USD \$350,000.00

THIS LETTER OF CREDIT IS AVAILABLE FOR PAYMENT AGAINST PRESENTATION OF BENEFICIARY'S DRAFTS AT SIGHT DRAWN ON BANK OF AMERICA, SCRANTON, PA BEARING THE CLAUSE "DRAWN UNDER BANK OF AMERICA LETTER OF CREDIT NO. _____".

ADDITIONALLY, BENEFICIARY MUST PRESENT A STATEMENT SIGNED BY THE EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF (OR DESIGNEE) ATTESTING THAT "BY THE ATTACHED ORDER, PALMETTO OF RICHLAND COUNTY LLC HAS BEEN FOUND BY THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA TO BE A PUBLIC UTILITY THAT IS IN VIOLATION OF AN ORDER FROM THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA TO PROVIDE SERVICE AND THAT ALL OR PART OF THE AMOUNT OF BANK OF AMERICA LETTER OF CREDIT NO. _____ HAS BEEN DECLARED FORFEITED BY THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA IN ACCORDANCE WITH S.C. CODE SECTION 58-5-720".

WE HEREBY ENGAGE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED ON PRESENTATION TO US ON OR BEFORE THE EXPIRATION DATE.

IN THE EVENT OF A DRAW UNDER THIS LETTER OF CREDIT, THE BENEFICIARY IS REQUIRED TO PRESENT THE ORIGINAL LETTER OF CREDIT, AND ANY AMENDMENTS WHICH MAY BE ISSUED IN THE FUTURE, WITH ANY/ALL OTHER DOCUMENTS REQUIRED BY THIS CREDIT.

UNLESS OTHERWISE SPECIFIED THIS CREDIT IS SUBJECT TO THIS INTERNATIONAL STANDBY PRACTICES, ISP98, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590.

BANK OF AMERICA

AUTHORIZED SIGNATURE

RECEIVED
BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2014-__-S

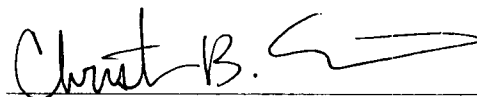
IN RE:

Application of Palmetto Utilities, Inc.)
For Leave to Substitute a Letter of)
Credit for a Certificate of Deposit)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the above-referenced **Petition** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201



Christine B. Severin

Columbia, South Carolina
This 19th day of December, 2014.